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*Attorney for Defendant Tabien Elijah Burton

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 United States of America,

13 Plaintiff,

14 v.

15 Tabien Elijah Burton,

16 Defendant.

Case No. 2:22-mj-00119-DJA

ORDER

17 **Stipulation**

18
19 Mr. Burton was charged by complaint with four counts: (1) Operating a Motor
20 Vehicle while Under the Influence of Alcohol (a violation of 36 C.F.R. § 4.23(a)(1));
21 (2) Operating a Motor Vehicle with a BAC of 0.08 Grams and Higher (a violation of
22 36 C.F.R. § 4.23(a)(2)); (3) Interfering with Agency Functions (a violation of 36
23 C.F.R. § 2.32(a)(1)); and (4) Under the Influence of Alcohol (a violation of 36 C.F.R. §
24 2.35(c)). (ECF No. 1.)

25 Mr. Burton entered a plea agreement (ECF No. 32), pleaded guilty to Count
26 One, and was sentenced as follows: “Defendant pleads guilty to count one and is
27 sentenced to one year unsupervised probation; \$500.00 fine and \$10.00 penalty

1 assessment; attend and complete lower court DUI course and victim impact panel;
2 continue with alcohol abuse treatment in lieu of 8 hours online alcohol course; and
3 restricted from Lake Mead National Recreational Area for six months. If the
4 defendant successfully completes his conditions within the first six months of his
5 unsupervised probation, government counsel will move to amend count one to
6 Reckless Driving, see plea agreement.” (ECF No. 31.) Counts Two, Three, and Four
7 were dismissed. (*Id.*)

8 Mr. Burton now has completed the special conditions of his unsupervised
9 probation. Accordingly, the parties jointly request that the Court allow Mr. Burton
10 to withdraw his guilty plea to Count One (Operating a Motor Vehicle Under the
11 Influence) and enter a plea of guilty to an Amended Count One: Reckless Driving.

12 Dated April 24, 2024.

13 Respectfully submitted,

14
15 Rene L. Valladares
16 Federal Public Defender

Jason Frierson
United States Attorney

17 /s/ Rick Mula

/s/ Randolph J. St. Clair

18 Rick Mula
19 Assistant Federal Public Defender

Randolph J. St. Clair
Assistant United States Attorney

Proposed Order

Based on the representations of counsel, the Court finds that Mr. Burton has completed the requirements of his unsupervised probation in accordance with his plea agreement and sentence.

IT IS THEREFORE ORDERED that Mr. Burton is permitted to withdraw his guilty plea to Count One: Operating a Motor Vehicle Under the Influence.

IT IS FURTHER ORDERED that the Court, consistent with the plea agreement and sentence, enters a plea of guilty to Amended Count One: Reckless Driving.

IT IS FURTHER ORDERED that the status conference set for April 26, 2024, at 11:30 AM is vacated and this case is closed.

DATED this ^{24th} ____ day of April, 2024.



DANIEL J. ALBREGTS
United States Magistrate Judge